

# **EXHIBIT A**

**EXHIBIT A**

SEP. 9. 2009 1:58PM 3618 8772276027 WELLS FARGO BANK NA

08-27-09 NO. 1434 Pg. 5/11

CONF

JAMES R. STOUT, ESQ.

Nevada Bar No. 000080

STOUT LAW FIRM

450 South Decatur Blvd., Suite 201

Las Vegas, Nevada 89104

(822) 794-4411

Attorneys for Plaintiff

FILED

Aug 21 3 52 PM '09

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

DENISE FULEIHAN, an individual,

Plaintiffs,

Case No. A-09-597974-C  
Dept. No. XXIVWELLS FARGO dba AMERICA'S  
SERVICING COMPANY, a foreign  
corporation, FREMONT INVESTMENT AND  
LOAN, foreign corporation, and DOES 1-5,  
inclusive, and DOES 1-V, inclusive,

Defendants.

ARBITRATION EXEMPT  
(Amount in Controversy Exceeds  
\$50,000.00.)COMPLAINT

COMES NOW Plaintiff DENISE FULEIHAN [hereinafter referred to collectively as

Plaintiffs] by and through her attorneys, James R. Stout, Esq. and STOUT LAW FIRM, and

for her Complaint, plead and allege as follows:

JURISDICTION1. Plaintiff DENISE FULEIHAN was at all relevant times a resident of Clark  
County, Nevada.2. Based upon information and belief, Defendant WELLS FARGO dba  
AMERICA'S SERVICING COMPANY [hereinafter referred to as "WELLS"] is a foreign  
corporation, authorized to conduct business, and conducted business at all times relevant herein  
in Clark County, Nevada.

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3. Based upon information and belief, Defendant FREMONT INVESTMENT LOAN (hereinafter referred to as "FREMONT"), is a foreign corporation, authorized to conduct business, and conducted business at all times relevant herein, in Clark County, Nevada.

4. The residential real property which is the subject of the dispute underlying this action is situated in Clark County, Nevada at 209 Royal Aberdeen Way, Las Vegas, Nevada 89114 and more particularly identified as APN# 137-36-514-054 (hereinafter referred to as "Subject Property").

5. Plaintiff is informed and believe and thereon alleges that the true names and capacities, whether individual, corporate, associate or otherwise, of DOES 1-100 and DOES 1-2 inclusive, are unknown to Plaintiff who therefore sue said Defendants by said fictitious names. Plaintiff believes that each of the Defendants designated as a DOE or ROE Defendant is responsible in some manner for the events and happenings described in the Complaint which proximately caused or contributed to the damages to Plaintiff as alleged herein. Plaintiff will seek leave of Court to amend the Complaint to insert the true names and capacities of the DOE and ROE Defendants and state appropriate charging allegations at such time that the true identities of these Defendants becomes known or ascertained by Plaintiff.

6. Defendants and each of them are the employees, assignees, and/or agents of each other, and at all times relevant herein, were acting within the course and scope of their employment, assignment and/or agency.

7. On or about March 7, 2001, Plaintiff purchased the Subject Property.

8. On or about May 1, 2006, Plaintiff refinanced her loan with Fremont Investment

9. Loan, a broker for Defendant, WELLS (hereinafter referred to as "Mortgage Loan"). WELLS recorded the deed of trust securing the Mortgage Loan with the Clark County Recorder's Office.



1 on or about June 1, 2006.

2 9. Plaintiff became delinquent in her mortgage payments to WELLS

3 10. On May 14, 2009, WELLS caused to be filed with the County Recorder's Office

4 a Notice of Default and Election to Sell.

5 11. On or about August 17, 2009, WELLS caused to be recorded a Notice of Trustee

6 Sale.

7 **FIRST CAUSE OF ACTION**

8 **Violations of the Real Estate Settlement and Procedures Act (RESPA)**

9 12. Plaintiff repeats and re-alleges and incorporates by reference the foregoing  
10 Paragraphs of this Complaint as though fully set forth at length herein.

11 13. Should the Court find that the Defendants or each of them, are not the real party  
12 in interest, or lack standing to service the Mortgage Loan, or foreclose on the Mortgage Loan,  
13 that Plaintiff seeks damages under RESPA.

14 14. RESPA also requires that Plaintiff be advised of any sale, transfer or assignment  
15 of the Mortgage Loan, and based on information and belief, the Mortgage Loan was sold,  
16 transferred and/or assigned without advising Plaintiff.

17 15. RESPA also requires that the Plaintiff were accurately advised of the settlement  
18 costs and monthly costs and payment amount, associated with the Mortgage Loan, and  
19 Defendants did not accurately disclose the settlement costs and the monthly costs and payment  
20 amount to the Plaintiff.

21 16. As a result of Defendants' violation of RESPA, Plaintiff suffered damages in  
22 excess of \$10,000.

23 17. Plaintiff was required to retain an attorney to prosecute this action and is entitled

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WELLS FARGO BANK NA

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to cost of attorneys' fees and costs.

## SECOND CAUSE OF ACTION

### Violation of the Truth in Lending Act (TILA)

18 Plaintiff repeats and re-alleges and incorporates by reference the foregoing  
19 paragraphs of this Complaint as though fully set forth at length herein.

19 TILA is a Federal Act codified in 15 U.S.C. § 1601 et seq.

20 TILA required Defendants to provide clear, conspicuous, and accurate disclosures  
21 of all material terms for the Mortgage Loan.

22 Defendants failed to provide clear, conspicuous, and accurate disclosures  
23 including without limitation, loan documentation disclosures pursuant to TILA, and as such  
24 Defendants violated the obligations set forth in TILA.

25 Defendants misrepresnted certain Mortgage Loan terms in violation of TILA.

26 As a result of Defendant's violation of TILA, Plaintiff suffered damages in  
27 excess of \$10,000.

28 Plaintiff was required to retain an attorney to prosecute this action and is entitled  
29 to reasonable attorney's fees and costs.

## THIRD CAUSE OF ACTION

### Rescission and Declaratory Relief

30 Plaintiff repeats and re-alleges and incorporates by reference the foregoing  
31 paragraphs of this Complaint as though fully set forth at length herein.

32 WELLS has made demands for mortgage payments to Plaintiff under the  
33 Mortgage Loan.

34 Based on information and belief, Plaintiff believe that Defendants are not the  
35



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holders of the Note, and therefore, lack ownership of the Note, and a right to demand payment

29. Defendants have failed to provide proof that they have rights or standing under the Note.

30. Based on information and belief, Defendants did not properly sign the Note or related documents thereby rendering those documents void.

31. Plaintiff requests a declaratory judgment wherein the Defendants are decreed to lack standing to pursue rights under the Note, and therefore, Defendants and/or their agents are prohibited from exercising rights under the Note, including, without limitation, foreclosure and eviction of the Subject Property, and demanding payments under the Note.

32. Plaintiff requests a rescission of the Trust Deed and that the Court set aside and void the Foreclosure.

33. As a result of Defendant's violation of the aforementioned laws, including without limitation, TILA and RESPA, Plaintiffs suffered damages in excess of \$10,000.

34. Plaintiff was required to retain an attorney to prosecute this action and is entitled to reasonable attorneys' fees and costs.

#### FOURTH CAUSE OF ACTION

##### Unfair Lending Practices

35. Plaintiff repeats and re-alleges and incorporates by reference the foregoing Paragraphs of this Complaint as though fully set forth at length herein.

36. Based on information and belief, Defendants, knowingly and intentionally, made the Mortgage Loan to the Plaintiff based solely on the Plaintiff's equity in the Subject Property and without determining that the Plaintiff had the ability to repay the Mortgage Loan from other assets, including, without limitation, Plaintiff's income.

1 Defendants in so making the Mortgage Loan to Plaintiff knowing that there  
2 existed an unreasonable probability that the Plaintiff could not perform the obligations pursuant  
3 to the Mortgage Loan, engaged in predatory lending practices against Plaintiff.

4 42. As a result of Defendants' violation of NRS 598 and other unfair lending statutes,  
5 Plaintiff suffered damages in excess of \$10,000.

6 43. Plaintiff was required to retain an attorney to prosecute this action and is entitled  
7 to reasonable attorney's fees and costs.

8 WHEREFORE, Plaintiffs pray for judgment against Defendants and each of them as follows:

9  
10 1. Defendants wrongfully proceeded with foreclosure actions;

11 2. Defendants violated RESPA;

12 3. Defendants violated TILA;

13 4. Declaratory judgment in favor of Plaintiffs that Defendants lack standing to pursue  
14 rights under the Mortgage Loan;

15 5. Order rescinding the Mortgage Loan;

16 6. Defendants violated unfair lending statutes;

17 7. Attorney's fees and costs of suit;

18 8. Monetary damages; and  
19 9. Monetary damages; and



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10 For any and all such other and further relief as the Court may deem just in the

11

12 DATED this 7th day of August, 2009.

13 STOUT LAW FIRM

14 By 

15 JAMES R. STOUT, ESQ.

16 Nevada Bar No.: 008630

17 4560 South Decatur Blvd., Suite 200

18 Las Vegas, Nevada 89103

19 (702) 794-4411

20 Attorneys for Plaintiffs



# **EXHIBIT B**

# **EXHIBIT B**

APN# 137-36-514-054

11-digit Assessor's Parcel Number may be obtained at:  
<http://redrock.co.clark.nv.us/assrrealprop/owner.aspx>

Notice of Lis Pendens

**Type of Document**

(Example: Declaration of Homestead, Quit Claim Deed, etc.)

**Recording Requested By:**

Stout Law Firm

**Return Documents To:**

Name Stout Law Firm

Address 4560 South Decatur Boulevard, Suite 201

City/State/Zip Las Vegas, Nevada 89103

This page added to provide additional information required by NRS 111.312 Section 1-2

(An additional recording fee of \$1.00 will apply)

This cover page must be typed or printed clearly in black ink only.



LISP

JAMES R. STOUT, ESQ.  
Nevada Bar No. 008680  
STOUT LAW FIRM  
4560 South Decatur Blvd., Suite 201  
Las Vegas, Nevada 89104  
(702) 794-4411  
Attorneys for Plaintiff

FILED

AUG 26 3 57 PM '09

*E. J. Smith*  
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

DENISE FULEIHAN, an individual,

Plaintiffs,

v.

WELLS FARGO dba AMERICA'S  
SERVICING COMPANY, a foreign  
corporation; FREMONT INVESTMNET AND  
LOAN, foreign corporation, and DOES 1-5,  
inclusive; and ROES I-V, inclusive,

Defendants.

Case No. :

Dept. No.:

A-09-  
597974 -C  
XXIII

**ARBITRATION EXEMPT**  
(Amount in Controversy Exceeds  
\$50,000.00.)

**NOTICE OF LIS PENDENS**

NOTICE IS HEREBY GIVEN TO ANY AND ALL PERSONS AFFECTED HEREBY  
that a Complaint has been filed in the above-entitled matter by the foregoing Plaintiff DENISE  
FULEIHAN, against the above-entitled Defendants to set aside and/or prevent foreclosure and/or  
enjoin transfer or conveyance of title in the following property and thereby creates a constructive  
trust thereon and that said Plaintiff does hereby provide Notice pursuant to Chapter 14 of the  
Nevada Revised Statutes to any and all persons claiming any interest in the subject property of  
this pending action for:

209 Royal Aberdeen Way, Las Vegas, Nevada 89144 and more particularly identified  
as APN# 137-36-514-054

1 Pursuant to NRS 14.010, notice is hereby provided that Plaintiff is seeking specific  
2 performance of said agreement and the transfer or retention of title thereto to Plaintiff from  
3 Defendants, as well as monetary damages in the form of general and special damages, interest,  
4 attorneys' fees and litigation costs, as well as any other form of relief which the Court may deem  
5 to be appropriate due to Defendants' acts and omissions.

6 DATED this 24 day of August, 2009.

7 STOUT LAW FIRM

8  
9 By: \_\_\_\_\_

10 JAMES R. STOUT, ESQ.  
11 Nevada Bar No.: 008680  
12 4560 South Decatur Blvd., Suite 201  
13 Las Vegas, Nevada 89103  
14 (702) 794-4411  
15 Attorneys for Plaintiff  
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# **EXHIBIT C**

# **EXHIBIT C**

## Southern Nevada GIS ~ OpenWeb Info Mapper



The MAPS and DATA are provided without warranty of any kind, expressed or implied.  
Date created: 9/24/2009

### Property Information

Parcel Number:	13736514054
Owner Name(s):	FULEIHAN DENISE LIVING TRUST and FULEIHAN DENISE TRS
Site Address:	209 ROYAL ABERDEEN WY
Jurisdiction:	Las Vegas - 89144
Zoning Classification:	Planned Community District (P-C)

### Miscellaneous Information

Subdivision Name:	PARCEL O SUMMERLIN VILLAGE 3-		
Lot Block:	Lot 118 Block A	Construction Year:	2001
Last Sales Date:	03/2001	T-R-S:	20-59-36
Last Sales Price:	\$532,220	Census Tract:	3223
Recorded Doc Number:	2008102405693	Estimated Lot Size:	0.26 acres

### Elected Officials

Commission District:	C - LARRY BROWN	City Ward:	2 - STEVE WOLFSON
U.S. Senate:	JOHN ENSIGN, HARRY REID	U.S. Congress:	01 - SHELLEY BERKLEY
State Senate:	8 - BARBARA K. CEGAUSKE	State Assembly:	2 - JOHN HAMBRICK
School District:	E - TERRI JANISON	University Regent:	7 - RAY RAWSON
Board of Education:	2 - ANTHONY RUGGIERO	Minor Civil Division:	Las Vegas Township



# **EXHIBIT D**

**EXHIBIT D**

1 REMV  
2 Cynthia A. LeVasseur, Esq.  
3 Nevada Bar No. 6718  
4 Cassie R. Stratford, Esq.  
5 Nevada Bar No. 11288  
6 SNELL & WILMER LLP.  
7 3883 Howard Hughes Parkway  
8 Suite 1100  
9 Las Vegas, NV 89169  
10 Telephone: 702.784.5200  
11 Facsimile: 702.784.5252

12 *Attorneys for Defendant WELLS FARGO BANK, N.A., dba*  
13 *AMERICA'S SERVICING COMPANY (erroneously sued as Wells*  
14 *Fargo dba America's Servicing Company)*

15 DISTRICT COURT

16 CLARK COUNTY, NEVADA

17 DENISE FULEIHAN, an individual,  
18  
19 Plaintiff,

20 vs.

21 WELLS FARGO dba AMERICA'S  
22 SERVICING COMPANY, a foreign  
23 corporation, FREEMONT INVESTMENT  
24 AND LOAN, a foreign corporation, and  
25 DOES 1-5, inclusive, ROES I-V, inclusive,  
26  
27 Defendants.

Case No. A-09-597974-C

Dept. No. XXIII

**NOTICE OF REMOVED ACTION**

28 TO: THE HONORABLE JUDGES OF THE ABOVE-ENTITLED COURT, THE  
CLERK OF THE DISTRICT COURT, AND ALL PARTIES HERETO AND THEIR  
ATTORNEYS.

Please take notice that Defendant Wells Fargo Bank, N.A., dba America's Servicing  
Company (*erroneously sued as Wells Fargo dba America's Servicing Company*) by and through  
its undersigned counsel, has removed this action to the United States District Court for Nevada  
pursuant to 28 U.S.C. § 1331 (Federal Question) and 28 U.S.C. § 1441 (Diversity).

///

1 A true and correct copy of the Notice of Removal filed in the United States District Court for  
2 Nevada is attached hereto.

3 Dated: September 24, 2009.

4 SNELL & WILMER L.L.P.

5  
6 By: /s/ Cassie R. Stratford

7 Cynthia A. LeVasseur, Esq.

8 Nevada Bar No. 6718

9 Cassie R. Stratford, Esq.

10 Nevada Bar No. 11288

11 3883 Howard Hughes Parkway, Suite 1100

12 Las Vegas, Nevada 89169

13 *Attorneys for Defendant WELLS FARGO BANK,*  
14 *N.A. , dba America's Servicing Company*  
15 *(erroneously sued as Wells Fargo dba America's*  
16 *Servicing Company)*

Snell & Wilmer

LLP  
LAW OFFICES  
3883 HOWARD HUGHES PARKWAY, SUITE 1100  
LAS VEGAS, NEVADA 89169  
(702)784-5200

**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing document **NOTICE OF REMOVED ACTION** by the method indicated:

  X   by U. S. Mail  
       by Facsimile Transmission  
       by Overnight Mail  
       by Federal Express  
       by Hand Delivery

and addressed to the following:

James R. Stout, Esq.  
Stout Law Firm  
4560 S. Decatur, Suite 201  
Las Vegas, Nevada 89103  
Attorney for *Plaintiff*

DATED this 24th day of September, 2009.

          /s/ Rita Tuttle            
An employee of Snell & Wilmer L.L.P.